



Case Western Reserve Law Review

Volume 3 | Issue 2

1951

Criminal Law--First Degree Murder in Ohio--Requirement of Intent to Kill

Marshall L. Nurenborg

Follow this and additional works at: <https://scholarlycommons.law.case.edu/caselrev>



Part of the [Law Commons](#)

Recommended Citation

Marshall L. Nurenborg, *Criminal Law--First Degree Murder in Ohio--Requirement of Intent to Kill*, 3 W. Res. L. Rev. 183 (1951)
Available at: <https://scholarlycommons.law.case.edu/caselrev/vol3/iss2/14>

This Recent Decisions is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Law Review by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

**CRIMINAL LAW — FIRST DEGREE MURDER IN OHIO —
REQUIREMENT OF INTENT TO KILL**

The defendant, while attempting to rob the decedent, killed him by striking him on the head with a stick. The defendant was convicted of first degree murder. The Ohio Supreme Court, reversing the conviction, held that there was not evidence to justify finding an intent to kill beyond a reasonable doubt, and that such evidence is necessary to sustain a conviction of first degree murder under Ohio General Code Section 12400,¹ although the killing occurred in an attempt to rob.²

This decision is in accord with earlier holdings³ regarding the requirement of actual intent to kill as an element of first degree murder in Ohio. However, the case of *State v. Salter*⁴ cast some doubt on this requirement. True, in that case the court *said* that Section 12400 requires an intent to kill as an element of first degree murder. But the court sustained a conviction thereunder although the evidence did not seem to justify a conclusion of intent to kill beyond a reasonable doubt. The importance of the principal case lies in its clear adherence to the rule advanced in the earlier decisions.

MARSHALL I. NURENBERG

¹ "Whoever, purposely, and either of deliberate and premeditated malice, or by means of poison, or in perpetrating or attempting to perpetrate rape, arson, robbery or burglary, kills another is guilty of murder in the first degree."

² *State v. Farmer*, 156 Ohio St. 214, 102 N.E.2d 11 (1951).

³ *Robbins v. State*, 8 Ohio St. 131 (1857); *Turk v. State*, 48 Ohio App. 489, 194 N.E. 425, *aff'd* 129 Ohio St. 245, 194 N.E. 453 (1935).

⁴ 149 Ohio St. 264, 78 N.E.2d 575 (1948).

NOTICE

In co-operation with the Government and at the request of the Federal Bureau of Investigation the WESTERN RESERVE LAW REVIEW would like to make the following information available to its readers.

The Federal Bureau of Investigation is now accepting applications for the positions of Special Agent and Special Agent (Accountant) from qualified candidates who possess an LL.B. degree or accounting degree from resident schools. For a temporary indefinite period applications are also being accepted for the position of Special Agent Employee from men who possess a four year degree (such as A.B., B.S., or other) from accredited resident colleges.

Applicants must:

- 1) Be male citizens of the United States.
- 2) Be at least five feet seven inches in height without shoes.
- 3) Have reached their twenty-fifth but not their forty-first birthday.
- 4) Possess vision of not less than 20/40 and 20/50 (Snellen) corrected to 20/20.
- 5) Possess normal hearing and color vision and be able to pass a rigid physical examination. They must be capable of performing strenuous physical exertion and have no physical defects which would interfere with their use of firearms or participation in raids, dangerous assignments or defensive tactics.
- 6) Be willing to serve in any part of the United States or territorial possession.
- 7) Be qualified in the operation of passenger vehicles.

Duties:

The above positions entail the investigation of: (1) violations of those laws of the United States over which the Federal Bureau of Investigation has jurisdiction, (2) Subversive activities endangering the internal security of the United States.

Entrance Salary: — \$5,500 per annum.

Retirement:

An agent may retire after 20 years' service, at the minimum age of 50. His pension is based upon the average of his highest five years' salary. He receives 2% of this amount for each year of service up to a maximum of 60%.

How To Apply:

Applicants will be afforded an interview and must pass a written examination. Appointments are subject to a complete character and fitness investigation. Application forms and further information may be secured from the nearest field office of the Federal Bureau of Investigation.